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SERVICE DATE - AUGUST 28, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 135X)

UNION PACIFIC RAILROAD COMPANY-ABANDONMENT
EXEMPTION-IN ST. LOUIS COUNTY, MO
(KIRKWOOD INDUSTRIAL LEAD, KIRK JCT. TO BILLMAN SPUR)

Decided: August 22, 2001

On August 18, 1999, a Decision and Notice of Interim Trail Use or Abandonment (NITU) was served in this proceeding, authorizing a 180-day period for Trailnet, Inc. (Trailnet) to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP) for the rail line proposed for abandonment, a 2.18-mile segment of the Kirkwood Industrial Lead extending from milepost 13.62 near Kirk Jct. to the end of the line at milepost 15.80 near Billman Spur, in St. Louis County, MO. By decisions served on February 17 and August 11, 2000, and March 5, 2001, the negotiating period was extended to August 16, 2000, February 18 and August 18, 2001, respectively.

On August 17, 2001, Trailnet filed a request to extend the period in which to complete negotiations until February 18, 2002.¹ Also on August 17, 2001, UP advised the Board that it concurs with Trailnet's request.²

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board

¹ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company-Abandonment Exemption-In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

² The decision served March 5, 2001, also granted Trailnet's request to reduce the mileage subject to the NITU to a 2.034-mile segment between mileposts 13.766 and 15.80. UP has previously indicated that it would exercise the abandonment authorized in this proceeding for that portion of the line no longer subject to the NITU (between milepost 13.62 and milepost 13.766), as of February 18, 2001.

retains jurisdiction and the NITU negotiating period may be extended.³ Under the circumstances, further extension of the negotiating period for the Kirkwood Industrial Lead between milepost 13.766 and milepost 15.80 is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to February 18, 2002.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU for the Kirkwood Industrial Lead between milepost 13.766 and milepost 15.80 is extended to February 18, 2002.
2. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

³ See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.--Aban.--In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).